

REMARKS

The following is a supplemental amendment to further clarify the Applicants' response submitted by facsimile on January 7, 2005 in response to the Office Action dated October 7, 2004. After further studying the October 7, 2004 Office Action, the Applicants submit that the Declaration under 27 C.F.R. §1.131 sent on January 7, 2005 is not necessary for patentability. In the Office Action, the Examiner rejected claims 1-8, and 9-16 under 35 U.S.C. § 103(a) as being unpatentable over Ingles (A Parallel Tools Consortium Project: Dynamic Probe Class Library) and further in view of Livermore National Laboratory (Performance Analysis Tools). Applicants submit that under 35 U.S.C. § 103 (c), the subject matter of Ingles cited by Examiner and of the presently claimed invention has been and are commonly owned by International Business Machines Corporation at the time by the claimed invention was made, and that this effectively disqualifies the cited reference as prior art under 35 U.S.C. § 103 (c) for purposes of an obviousness rejection. See also MPEP § 706.02 (I) (3), specifically directing Examiners to check the assignment records to determine common ownership. Note also that the date of the Ingles reference is August 30, 2000, while the file date of the present patent application is August 24, 2001. The Ingles reference, accordingly, is being cited under 35 U.S.C. § 102(e)/103(a) for an obviousness rejection. Therefore, on the rejection basis discussed above, Applicants submit that the subject matter of the Ingles reference should be disqualified from relevant prior art under 35 U.S.C. § 103 (c) for purposes of an obviousness rejection.

With Ingles reference disqualified, the Applicants respectfully submit that the Examiner's rejection of claims 1-8, and 9-16 under 35 U.S.C. § 103(a) as being unpatentable over Ingles (A Parallel Tools Consortium Project: Dynamic Probe Class Library) and further in view of Livermore National Laboratory (Performance Analysis Tools) should be withdrawn.

PLEASE CALL the undersigned if that would expedite the prosecution of this application.

Respectfully submitted,

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